

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Jane E. Holt

Appellant

v.

Case Nos. 08-REM-03-0067
08-REM-04-0093

Franklin County Clerk of Courts

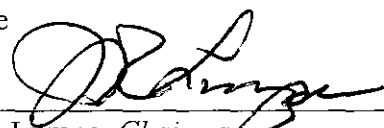
Appellee

ORDER

These matters came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms Appellant's removal with the effective date of February 29, 2008 (Case Nos. 08-REM-03-0067 and 08-REM-04-0093). Because Case Nos. 08-REM-03-0067 and 08-REM-04-0093 involve substantially similar facts and law, these two cases are hereby **CONSOLIDATED**.

Wherefore, it is hereby **ORDERED** that Appellant's removal, which is the subject of the above-referenced appeals, be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto.

Lumpe – Aye
Booth – Aye
Sfalcin – Aye



J. Richard Lumpe, *Chairman*

CERTIFICATION

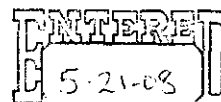
The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment theretofore constitute ~~(the original)~~ a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, May 21, 2008.



Michelle Hunsley
Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.



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Case Nos. 08-REM-03-0067
08-REM-04-0093

Franklin County Clerk of Courts,

Appellee

OPINION

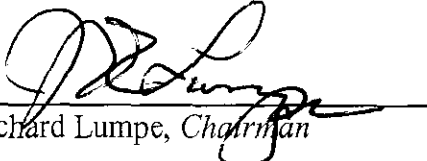
Appellant was removed from her Deputy Clerk position on February 29, 2008 via a letter from Appellee's Director of Human Resources, from which letter Appellant timely filed her appeal on March 21, 2008 (Case No. 08-REM-03-0067). On April 15, 2008, Appellee served Appellant with a precautionary R.C. 124.34 Order of Removal from that same position again utilizing an effective date of February 29, 2008. On April 16, 2008, Appellant then timely filed her appeal from her receipt of that R.C. 124.34 Order of Removal (Case No. 08-REM-04-0093). Appellee's February 29, 2008 letter of termination (Case No. 08-REM-03-0067) was procedurally defective because Appellee did not utilize an R.C. 124.34 Order of Removal. Appellee's subsequent use of an R.C. 124.34 Order of Removal was procedurally defective because Appellee signed and served the order after the effective date of Appellant's removal (Case No. 08-REM-04-0093). *It is noted that Appellee then served Appellant with a second R.C. 124.34 Order of Removal that appears on its face to have been signed and served on or before its effective date and that is the subject of a separate appeal filed by Appellant. That appeal is currently pending before the Board.*

Ohio Administrative Code Section 124-03-01(A) requires that before an Order may be affirmed, the appointing authority must satisfy the following:

- (2) The employer shall serve the employee with a copy of the order on or before the effective date of the action;

The appointing authority has failed to comply with Ohio Administrative Code Section 124-03-01(A)(2).

Therefore, Appellant's removal with the effective date of February 29, 2008 is **DISAFFIRMED**. Disaffirmance of an R.C. 124.34 Order of Removal under O.A.C. 124-03-01(A) shall not be a bar to refileing an Order, based upon the same incidents, which complies with the rule. O.A.C. 124-03-01(B).



J. Richard Lumpe, *Chairman*